IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

SB CIVIL WRIT PETITION NO.3315/1994
Rajasthan State Road Transport Corporation, Jaipur
V/s
Sumer Singh Yadav & anr.

Date of Order : : 13.10.2006

PRESENT
HON'BLE MR. JUSTICE P.S. ASOPA

Mr.Ashok Bansal, for the petitioner.
None for the respondents.

The instant writ petition has been filed by the Rajasthan State Road Transport Corporation (For short "the Corporation") against the award of the Labour Court dated 8.9.1993 whereby the Labour Court has invoked the power under Section 11-A of the Industrial Disputes Act, 1947 and substituted the punishment of dismissal by withholding of two grade increments with cumulative effect with a further direction to reinstate the petitioner with continuity in service. The workman was also not allowed the wages from the date of termination to the date of decision and other benefits, but has bee allowed the wages and other benefits from the date of the award.

The facts, in brief, of the case are that the

respondent No.1 – Sumer Singh Yadav was given two charge sheets, one on 16.6.1982 and another on 28.8.1982. The common enquiry proceedings were conducted against the respondent No.1 – workman. In the enquiry, the respondent No.1 was held guilty of the charge No.2 of the incident dated 12.7.1982 of carrying six passengers without ticket of which the total fare was Rs.5.60 paisa, whereas he was exonerated with regard to the incident dated 23.5.1982 of carrying two passengers without ticket.

The Labour Court has held the enquiry fair and considered the material on record and while giving finding on the second charge, the Labour Court has considered the fact that there were six passengers without ticket of which the total fare was Rs.5.60 paisa and further out of six, five passengers boarded from Jhazzer to Gujana and were going to village Gujana whereas one passenger was going to Deegal. The inspection was carried out at village Gujana. Considering the fact of fare of Rs.5.60 paisa from Jhazzer to Gujana of six passengers, the Labour Court came to the conclusion that both the places are not situated at much distance and the respondent workman has already given ticket to 32 other passengers.

However, the Labour Court held that the fact of carrying the passengers without ticket, which is a misconduct and is proved, but the punishment is disproportionate.

The submission of Mr.Ashok Bansal is that the Supreme Court in such type of cases has deprecated the practice of exercising power under Section 11-A of the Industrial Disputes Act by the Labour Court / Industrial Tribunal to substitute the punishment and has further held that the said power is to be exercised judiciously, but the said judgments are not applicable in the facts and circumstances of this case where the respondent workman has substantially discharged his duty to give ticket to 32 persons and there was not much distance between village Jhazzer and Gujana, the fare of which was only Rs.5.60 paisa of six passengers.

No one appeared on behalf of the respondents on 12.10.2006 and now today also, no one appeared, therefore, the record of the writ petition was seen carefully.

In view of above, I find no infirmity in the award of the Labour Court. The writ petition is dismissed.

(P.S. ASOPA) J.

ummed/-